No. 82-1795

IN THE

Supreme Court of the United States

OCTOBER TERM, 1982

CAPITAL CITIES CABLE, INC.; COX CABLE OF OKLAHOMA CITY, INC.; MULTIMEDIA CABLEVISION, INC.; AND SAMMONS COMMUNICATIONS, INC.,

Petitioners,

v.

RICHARD A. CRISP, DIRECTOR, OKLAHOMA ALCOHOLIC BEVERAGE CONTROL BOARD,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

BRIEF AMICUS CURIAE OF NATIONAL CABLE TELEVISION ASSOCIATION, INC., AMERICAN TELEVISION AND COMMUNICATIONS CORP., TURNER BROADCASTING SYSTEM, INC., AND VIACOM INTERNATIONAL, INC. IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

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The National Cable Television Association, Inc. ("NCTA"), American Television and Communications Corp. ("ATC"), Turner Broadcasting System, Inc. ("TBS"), and Viacom International, Inc. ("Viacom"), respectfully submit this brief *amicus curiae* in support of the Petition for a Writ of Certiorari.

INTEREST OF AMICI CURIAE

NCTA is the principal trade association representing cable television operators in the United States. NCTA's members operate more than 2,000 cable systems nationwide. ATC, a wholly-owned subsidiary of Time, Inc., owns and operates 124 cable television stations in 33 states. TBS is the owner of SuperStation, Inc., which is the licensee of television station WTBS, Atlanta, Georgia. TBS also owns and operates the Cable News Network, an advertiser-supported all-news network. Both the Cable News Network and WTBS are delivered by satellite to cable systems nationwide for retransmission to cable subscribers. Both services currently carry wine commercials. Viacom is a diversified communications and entertainment company. Among other activities, Viacom owns 42 cable television systems in the United States, and operates an advertiser-supported satellite cable network.

Cable operators and advertiser-supported program services have a direct and substantial interest in this case. The court below has held that Oklahoma may prohibit cable operators from transmitting commercials for alcoholic beverages (including wine) on any of its channels. The result of such a prohibition is to limit drastically the sources of news and entertainment programming available to Oklahoma cable operators for retransmission to subscribers on their multichannel cable systems.

Microwave and satellite technology now makes it possible for cable systems to offer their subscribers not only improved reception of local over-the-air broadcast signals, but also distant, out-of-state broadcast signals and national cable networks. Many of these program sources contain advertising, including wine commercials. Because it is practically impossible for a cable operator to delete specific commercials from the numerous program services carried by his system (and because deletion of commercials from distant broadcast signals would be unlawful

and would result in copyright liability), the effect of the Oklahoma statute is to prevent Oklahoma cable systems from transmitting any distant broadcast signals and cable networks that may include wine commercials.

The law thus severely restricts the cable operator's discretion in selecting programming and prevents subscribers from receiving any of the wide range of advertiser-supported program services that emanate from outside Oklahoma and would otherwise be available. The impact on advertiser-supported cable services is also severe. In seeking to survive in competition with national broadcast networks and other programming sources, these cable services generally depend upon a national audience of the largest possible size. If a state can effectively prevent a cable program service from reaching its residents, the result is not only to deny the service to cable operators and subscribers within that state but also to threaten the viability of the service nationwide.

For these reasons, NCTA, ATC, TBS, and Viacom submit this brief *amicus curiae* and urge the Court to grant the petition for a writ of certiorari.

ARGUMENT

Introduction

This case presents novel and important First Amendment questions concerning the extent to which a state may prohibit communications media from carrying advertisements for certain products. At issue is an Oklahoma statute that prohibits the advertising of alcoholic beverages within the state.[1] The prohibition does not apply to national and out-of-state newspapers and magazines that are distributed in Oklahoma, and, until recently, the law was not enforced against television programming that originated outside Oklahoma but was retransmitted by Oklahoma cable systems. In May 1980,

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[1] Oklahoma Alcoholic Beverage Control Act, 37 Okla. St. Ann. § 516 (1982). *See also* Okla. Const. art. 27, § 5.

however, the Oklahoma Attorney General reversed past policy and ruled that the statute prohibits cable systems in Oklahoma from carrying advertisements for alcoholic beverages on any of the signals that they transmit to their subscribers.

The signals transmitted by cable systems are obtained from several sources. One source is local and nearby broadcast signals, which are received over-the-air, using a tall master antenna. In its earliest days, cable television's principal function was to provide clear reception of nearby signals in rural areas where over-the-air reception was poor.

Cable systems can also obtain and retransmit more distant broadcast signals, which are obtained off the air in a distant market and relayed to the cable system by microwave or by satellite transmission. In addition, cable operators can now choose from among a large number of non-broadcast program services that are transmitted by several communications satellites. As the Federal Communications Commission has noted, "As a result of satellite technology, cable systems and their subscribers have access to an extremely rich and divergent mix of program and information services."[2] From among all these

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[2] *Amendment of Part 76, Subpart G of the Commission's Rules and Regulations Concerning the Fairness Doctrine and Political Cablecasting Requirements for Cable Television Systems* (MM Docket No. 83-130), Notice of Proposed Rulemaking, FCC 83-331, para. 25 (May 25, 1983).

> For example, there are already 24-hour news services, ethnic, youth, and adult-oriented program channels. There are in operation or under development religious program channels, political affairs channel, all weather, all sports, health channels, channels of foreign language programming, of cultural programming, women's programming, and regionally oriented satellite networks. In addition, many new program or information services are in the developmental stage and will be added to the existing list of cable satellite networks that now provide diversified informaiton and programming to the public.

Id.

available program sources and his own locally produced programming,[3] the cable operator selects those that in his judgment will best meet the needs and demands of his community.

While some cable services, such as premium movie channels, are supported completely by fees charged to the cable system and its subscribers, many of the available program sources contain commercial advertising.[4] Except for television stations actually located in Oklahoma, these broadcast and satellite-delivered non-broadcast sources may and often do contain wine advertisements. Under the Oklahoma Attorney General's interpretation, cable operators in Oklahoma may not carry any of these program sources on their systems unless they delete all such advertisements.

As the district court determined, deletion of wine commercials from satellite-distributed non-broadcast cable services would, in most circumstances, be impossible.[5] Unless the program service gave the cable operator advance notice of the precise timing of each wine commercial, the cable operator would have no conceivable way of deleting it. But even if program services were able and willing to provide the information, the cost of actually deleting signals would be prohibitive.

With respect to distant, out-of-state broadcast signals that carry wine advertisements, the problem is not merely one of expense or impracticability. Under existing Federal laws and regulations, cable operators are not permit-

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[3] This may include access channels that are made available to the public and to governmental and educational institutions. It may also include channels operated by the cable operator that provide local news and entertainment programming.

[4] Currently, there are 42 operating satellite-delivered program services, of which 17 are advertiser-supported.

[5] "There exists no feasible way for Plaintiffs to black out the advertisements." Appendix to Petition ("Pet. App.") at 41a.

ted to delete commercials on a broadcast signal. The Federal Communications Commission flatly prohibits such deletions. *See* 47 C.F.R. § 76.55(b) (1982). In addition, under the Copyright Act of 1976, a cable operator who deletes a broadcaster's commercials forfeits his statutory license to carry broadcast signals and is liable for copyright infringement. *See* 17 U.S.C. § 111(c)(3) (Supp. V 1981).

Thus, by prohibiting cable operators from retransmitting wine commercials, Oklahoma has also prohibited cable systems from retransmitting any out-of-state commercial broadcast stations that carry such commercials.[6] And, because of the practical infeasibility of deleting commercials, Oklahoma has also effectively prohibited cable operators from carrying any of the multitude of advertiser-supported satellite-delivered cable program services that may carry wine advertisements.

If this prohibition is upheld, the effect on cable operators and their subscribers will be devastating. Cable television is a highly capital-intensive business. A cable operator's decision to wire an entire community and equip his facilities is premised on his ability to provide a multichannel package of program services that best meets the demands of his community. If the cable operator is not permitted to include distant broadcast signals or advertiser-supported satellite services in his package, the value of his service will be diminished, "probably caus[ing] a large but inherently immeasurable reduction in . . . subscriber revenue."[7] This loss in revenue could threaten

[6] The statute creates an additional problem for Oklahoma cable systems near the state's borders. Under FCC rules, cable operators are required to carry broadcast signals from local or nearby communities. *See* 47 C.F.R. §§ 76.57-76.61 (1982). Some Oklahoma cable operators are required by this rule to carry out-of-state signals from across the border. These signals may carry wine commercials. In these cases, the Oklahoma statute puts the cable operator in unavoidable jeopardy. If he carries the out-of-state signal with com-

[7] Pet. App. at 42a.

the viability of the cable system or substantially reduce the number of viewing options available to subscribers.

The court of appeals analyzed the Oklahoma advertising prohibition as if it affected only "commercial speech," and held that, under this Court's decisions, a ban on the advertising of alcoholic beverages was permissible. Even if this were simply a "commercial speech" case, the court's conclusion would have been erroneous. This Court has never held that the First Amendment permits a state to prohibit the truthful advertising of a lawful product. Oklahoma's statute, however, restrains not only commercial but also non-commercial speech, insofar as it effectively prevents cable operators from retransmitting and Oklahoma residents from receiving any out-of-state broadcast signals and any advertiser-supported satellite-delivered cable networks and services. This Court should review the court of appeals' decision, because such a broad restriction on the cable operator's program selection and on the public's viewing options goes far beyond what the First Amendment permits.

I. The Complete Prohibition of Liquor Advertising Is an Impermissible Restraint on Commercial Speech.

Viewed simply as a restraint on commercial speech, the Oklahoma advertising prohibition raises serious First Amendment problems and is at odds with well-established precedents of this Court. Even speech that does no more than "simply propose a commercial transaction" is entitled to First Amendment protection.[8] The state's asserted purpose in prohibiting liquor advertising—"to re-

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mercials intact, he violates the Oklahoma statute. If he deletes the wine commercials, he violates FCC and copyright rules prohibiting such deletions. And if he does not carry the signal at all, he violates the FCC's rule requiring such carriage.

[8] *Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 760 (1976), quoting *Bigelow v. Virginia*, 421 U.S. 809, 822 (1975).

duce the sale and consumption of liquor, and thereby reduce the problems associated with alcohol abuse"[9]—does not justify the resulting restraint on speech.

Oklahoma does not prohibit the sale of alcoholic beverages. In *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 773 (1976), this Court squarely addressed the question "whether a State may completely suppress the dissemination of concededly truthful information about entirely lawful activity, fearful of that information's effect upon its disseminators and its recipients" and decided that the "answer . . . is in the negative." As the Court found,

> It is precisely this kind of choice, between the dangers of suppressing information, and the dangers of its misuse if it is freely available, that the First Amendment makes for us.

Id. at 770.

In *Carey v. Population Services International*, 431 U.S. 678 (1977), the Court similarly held that a state could not prohibit truthful advertising of legally available contraceptives in order to discourage their use and discourage illicit sexual activity. The Court suggested that the strict standards of *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969) (*per curiam*), apply to efforts by the state to suppress completely the truthful advertising of a lawful product. That is, only advertising that is "directed to inciting or producing imminent lawless action and . . . likely to incite or produce such action" may be prohibited. 431 U.S. at 701, quoting *Brandenburg*, *supra*.

The court of appeals, however, concluded that, under the standards for reviewing restraints on commercial speech that this Court enunciated in *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1980), Oklahoma's total ban on

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[9] Pet. App. at 20a.

liquor advertising was permissible. In *Central Hudson*, the Court noted that

> [i]n commercial speech cases, . . . a four-part analysis has developed. At the outset, we must determine whether the expression is protected by the First Amendment. For commercial speech to come within that provision, it at least must concern lawful activity and not be misleading. Next, we ask whether the asserted governmental interest is substantial. If both inquiries yield positive answers, we must determine whether the regulation directly advances the governmental interest asserted, and whether it is not more extensive than is necessary to serve that interest.

447 U.S. at 566. The court of appeals held that, while the statute prohibited advertising that concerned lawful activity and was not misleading, the prohibition directly advanced the state's substantial interest in reducing alcohol consumption and was no more extensive than necessary to serve that interest.

This Court purported, in *Central Hudson*, not to overrule its previous decisions on commercial speech but simply to synthesize those holdings.[10] Indeed, the Court reaffirmed in *Central Hudson* that "in recent years this Court has not approved a blanket ban on commercial speech unless the expression itself was flawed in some way, either because it was deceptive or related to unlawful activity." 447 U.S. at 566 n.9. Thus, as the Court

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[10] As the Court subsequently stated with respect to the *Central Hudson* standards,

> We recognize, of course, that the generalizations summarized above do not afford precise guidance to the Bar and the courts. *They do represent the general principles that may be distilled from our decisions in this developing area of the law.* As they are applied on a case by case basis . . . more specific guidance will be available.

In the Matter of R.M.J., 102 S. Ct. 929, 938 n.16 (1982) (emphasis added).

subsequently made clear, nothing in *Central Hudson* altered the fundamental holding that "[a] State may not completely suppress the dissemination of truthful information about an entirely lawful activity merely because it is fearful of that information's effect upon its disseminators and recipients." *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 505 (1981).

By ignoring the precedents of this Court on which the *Central Hudson* standards are based, the court of appeals misapplied those standards. If a state could completely ban the advertising of a lawful product whenever it had a "substantial interest" in discouraging use of that product, the protections afforded to commercial speech by the First Amendment would be vitiated. The Court's statement in *Central Hudson* that a regulation of commercial speech "may not be sustained if it provides only ineffective or remote support for the government's purpose . . . [or] if the governmental interest could be served as well by a more limited restriction on commercial speech," 447 U.S. at 564, must be read in light of its previous decisions (and its decision in *Central Hudson* itself) striking down advertising bans aimed at discouraging consumption of lawful products.

If the state has an interest in suppressing the sale of a product, it may ban the product itself or it may publicize the product's defects and attempt to persuade the public not to buy it. Or it may, in some circumstances, regulate the "time, place and manner" in which the product is advertised.[11] But it may not shut off the flow of information about the product in the hope that, as a result, consumption will decline. Under the *Central Hudson* test, such an approach is too indirect a method to advance the

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[11] *See, e.g., Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, Inc., supra*, 425 U.S. at 771; *Linmark Associates, Inc. v. Township of Willingboro*, 431 U.S. 85, 93 (1977); *Carey v. Population Services International, supra*, 431 U.S. at 700.

state's public policy goals [12] and is too broad a restraint on speech.

This outcome is unaffected by the fact that, in the present case, the advertising at issue concerns alcoholic beverages. The Twenty-first Amendment does not supersede the First Amendment and give states the power to ban truthful advertising of a lawful product. In holding to the contrary, the court of appeals erroneously relied on this Court's dismissal of the appeal in *Queensgate Investment Co. v. Liquor Control Commission*, 103 S. Ct. 31 (1982), "for want of a substantial federal question."

The regulations upheld in that case "prohibited off-premises price advertising by *holders of certain liquor permits*." [13] They did not completely prohibit all advertising of alcoholic beverages in order to suppress their sales and consumption, and they applied only to advertising by licensed retailers and not to advertising by producers of alcoholic beverages. Nevertheless, the court of appeals was inexplicably "confident that the constitutional question presented in *Queensgate* and in the present appeals is substantially the same," Pet. App. at 14a, and concluded that

> [w]hen the Twenty-first Amendment is considered in addition to Oklahoma's substantial interest under its police power, the balance shifts in the state's favor, permitting regulation of commercial speech that might not otherwise be permissible. We believe that the Supreme Court's summary dismissal in *Queensgate* mandates this result.

Id. at 24a.

This Court has, however, made clear that the Twenty-first Amendment, while permitting states to regulate the

[12] *See Central Hudson, supra*, 447 U.S. at 566 n.9: "We review with special care regulations that entirely suppress commercial speech in order to pursue a nonspeech-related policy. In those circumstances, a ban on speech could screen from public view the underlying governmental policy."

[13] Pet. App. at 7a (emphasis added).

sale of alcoholic beverages, does not permit regulation that would otherwise violate the First Amendment or other Constitutional protections of individual rights.[14] The only relevance of the Twenty-first Amendment to the First Amendment analysis in this case is that the Twenty-first Amendment confirms that Oklahoma may have a legitimate and "substantial" interest in regulating the sale and consumption of alcoholic beverages. But, as shown above, Oklahoma's advertising prohibition fails the *Central Hudson* test not because there is no substantial state interest but because, as this Court has consistently held, a total advertising prohibition is an overly broad and impermissible means of furthering that interest, even if it is substantial. The Twenty-first Amendment empowers states to prohibit the sale of alcoholic beverages and, in some cases, to limit the time, place and manner in which such beverages are sold.[15] But the First Amendment commitment to the free exchange of ideas and information about lawful activities and products prevents states from completely suppressing the truthful advertising of such beverages if their sale is lawful.

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[14] *See, e.g., California Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc.*, 445 U.S. 97, 106-10 (1980); *Craig v. Boren*, 429 U.S. 190, 209 (1976); *Wisconsin v. Constantineau*, 400 U.S. 433, 436 (1971).

[15] *See, e.g., New York State Liquor Authority v. Bellanca*, 452 U.S. 714, 715 (1981) (*per curiam*). In that case, the Court held that "[t]he State's power to ban the sale of alcoholic beverages entirely includes the lesser power to ban the sale of liquor on premises where topless dancing occurs." *Id.* at 717.

Similarly, in *California v. LaRue*, 409 U.S. 109 (1972), the Court upheld a prohibition on acts of "gross sexuality" in establishments where liquor is served. In both cases, "the statute's prohibition applie[d] only to establishments which [were] licensed by the State to serve liquor." *Bellanca, supra*, 452 U.S. at 716. Thus, those cases suggest at most that a state may impose conditions on the circumstances under which a licensee may sell alcoholic beverages. They provide no support for the proposition that a state may control or suppress off-premises advertising or other speech, particularly when the speaker is not a state licensee.

II. The Advertising Prohibition Impermissibly Suppresses Noncommercial Speech By Preventing Cable Operators From Carrying National and Out-of-State Program Services.

The Oklahoma liquor advertising prohibition's restraining effect on commercial speech is itself sufficient to warrant review of the court of appeals' decision. But the restraints of the statute on noncommercial programming carried by cable systems are even more serious and go directly to the heart of the First Amendment.

As the Federal Communications Commission has noted, "Millions of households may be afforded not only increased viewing options, but also access to a diversity of services from cable television that presently is unavailable in their communities." [16] The Oklahoma statute drastically limits the viewing options and diversity of services that cable can provide. By effectively preventing cable operators from carrying out-of-state broadcast signals and satellite-delivered advertiser-supported program services that carry wine commercials, the statute unlawfully intrudes on cable operators' discretion in selecting programming and limits the flow of information available to Oklahoma residents.

Any governmental action that restricts available program sources and limits a media operator's editorial discretion in compiling and distributing a package of information to the public infringes basic First Amendment interests. In *Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241 (1974) and *Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U.S. 94 (1973),

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[16] *Cable Television Syndicated Program Exclusivity Rules* (Docket No. 20988), Report and Order, 79 F.C.C.2d 663, 746 (1980), *aff'd*, *Malrite T.V. of New York v. FCC*, 652 F.2d 1140 (2d Cir. 1981), *cert. denied*, 102 S. Ct. 1002 (1982).

this Court made clear that the First Amendment protects the editorial discretion of newspapers and broadcasters, respectively. Like newspapers, cable operators offer their subscribers a package of diverse entertainment and information, some of which they originate and some of which they obtain from other sources. And, as this Court found in *FCC v. Midwest Video Corporation*, 440 U.S. 689, 707 (1979), "Cable operators now share with broadcasters a significant amount of editorial discretion regarding what their programing will include."

While the Court has not had occasion to address specifically the First Amendment status of cable television, there can be no doubt that the programming transmitted by cable systems and the cable operators' editorial discretion in selecting that programming are similarly protected from governmental intrusion. Lower courts that have considered the issue have confirmed that cable operators are media of expression protected by the First Amendment.[17]

The Oklahoma liquor advertising ban, as construed by the state Attorney General, prevents cable operators from

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[17] *See, e.g., Home Box Office, Inc. v. FCC*, 567 F.2d 9, 43-51 (D.C. Cir.), *cert. denied*, 434 U.S. 829 (1977); *Community Communications Co., Inc. v. City of Boulder*, 660 F.2d 1370, 1376 (10th Cir. 1981); *Midwest Video Corp. v. FCC*, 571 F.2d 1025, 1053-57 (8th Cir. 1978), *aff'd on other grounds*, 440 U.S. 689 (1979); *Community Television of Utah, Inc. v. Roy City*, 555 F. Supp. 1164 (D. Utah 1982); *Home Box Office, Inc. v. Wilkinson*, 531 F. Supp. 987 (D. Utah 1982).

Some courts have questioned the extent to which the First Amendment protects cable operators from regulations that do not directly affect program content and editorial discretion. *See, e.g., Omega Satellite Products v. City of Indianapolis*, 694 F.2d 119, 127-28 (7th Cir. 1982); *Community Communications Co., Inc. v. City of Boulder*, *supra*, 660 F.2d at 1377-79. However, no such questions apply where, as here, content control is at issue.

selecting and Oklahoma viewers from receiving out-of-state broadcast signals and national news, information and entertainment services merely because those services may occasionally include wine commercials. Even if the commercials themselves were entitled to no First Amendment protection, this broad restraint on the national "free trade in ideas" [18] would be constitutionally impermissible. Short of a national emergency or a clear and present danger, no regulatory interest permits a state to surround itself with an "iron curtain" that prevents out-of-state information and communications from reaching its citizens.

It was just this sort of restraint on national and interstate communications media that worried this Court when it struck down Virginia's ban on abortion advertisements in *Bigelow v. Virginia, supra*, 421 U.S. at 828-29:

> If application of this statute were upheld under these circumstances, Virginia might exert the power sought here over a wide variety of national publications or interstate newspapers carrying advertisements similar to the one that appeared in Bigelow's newspaper or containing articles on the general subject matter to which the advertisement referred. Other States might do the same. The burdens thereby imposed on publications would impair, perhaps severely, their proper functioning. *See Miami Herald Publishing Co. v. Tornillo*, 418 U.S. 241, 257-58 (1974).

Although Virginia's prohibition was never applied to national or interstate newspapers or publications distributed in the state, the Court left little doubt that any such application—which could effectively preclude distribution of these newspapers and publications in Virginia—would run afoul of the First Amendment because

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[18] *Abrams v. United States*, 250 U.S. 616, 630 (1919) (Holmes, J., dissenting).

[t]he policy of the First Amendment favors dissemination of information and opinion, and "[t]he guarantees of freedom of speech and press were not designed to prevent 'the censorship of the press merely, but any action of the government by means of which it might prevent such free and general discussion of public matters as seems absolutely essential . . . .' 2 Cooley, Constitutional Limitations 886 (8th Ed.).

421 U.S. at 829, quoting *Curtis Publishing Co. v. Butts*, 388 U.S. 130, 150 (1967) (opinion of Harlan, J.). Oklahoma has similarly refrained from applying its prohibition on liquor advertising to newspapers and other publications printed outside the state. But by applying the law to commercials carried by Oklahoma cable systems on the national or out-of-state program services that they retransmit, the state restrains the flow of information just as surely as if it were to forbid distribution of the New York Times, the Wall Street Journal, Time and Newsweek because they contained liquor advertisements.

Any restraint on truthful advertising of a lawful product creates First Amendment problems. However, a law that prevents state residents from receiving the Cable News Network or other national program services and out-of-state broadcast signals because such services happen to carry wine commercials from time to time goes beyond the mere regulation of commercial speech. By treating the Oklahoma prohibition as if it restrained only commercial speech,[19] the court of appeals ignored the severe First Amendment restraint on non-commercial speech at issue in this case.

[19] Pet. App. 14a.

CONCLUSION

For the foregoing reasons, the Court should grant the petition of Capital Cities Cable, Inc., Cox Cable of Oklahoma City, Inc., Multimedia Cablevision, Inc. and Sammons Communications, Inc. for a writ of certiorari to review the judgment of the United States Court of Appeals for the Tenth Circuit.

Respectfully submitted,

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